

AMENDED IN SENATE AUGUST 14, 2008

AMENDED IN SENATE JUNE 18, 2008

AMENDED IN ASSEMBLY APRIL 3, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1955

Introduced by Assembly Member Plescia
(Principal coauthor: Senator Wyland)

February 13, 2008

~~An act to amend Section 1204.5 of the Penal Code, relating to criminal proceedings.~~
An act to add Section 1366.4 to the Civil Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

AB 1955, as amended, Plescia. ~~Criminal actions: pretrial information: criminal protective orders.~~ *Common interest developments: assessments.*

The Davis-Stirling Common Interest Development Act defines and regulates common interest developments and authorizes the association that manages the development to levy assessments to fulfill its obligations. The act establishes limits on the percentage by which an association may increase regular and special assessments based on the amounts of those assessments in the preceding fiscal year.

This bill would prohibit an association from levying assessments on separate interests within the common interest development based on the taxable value of the separate interests unless the association, on or before December 31, 2008, in accordance with its declaration, levied assessments on those separate interests based on their taxable value, as determined by the tax assessor of the county in which the separate interests are located.

~~Under existing law, a judge in any criminal action may not read or consider any written report of a law enforcement officer or witness, or other information or affidavit, after a complaint or accusatory pleading is filed but before a plea, finding, or verdict is made, without the defendant's consent, except as provided in affidavits in connection with the issuance of a warrant or other specified motions.~~

~~This bill would add another exception to that prohibition when the report to a judge or information is provided in connection with the consideration of the issuance of a criminal protective order or the parameters of that order when counsel for the defendant is not present. The bill would require any report considered in determining whether to issue a criminal protective order to comply with certain provisions relating to the protection of confidential personal information. The bill would provide that any criminal protective order issued pursuant to these provisions shall terminate no later than the next hearing when counsel for the defendant is present.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 1366.4 is added to the Civil Code, to read:*
2 *1366.4. Notwithstanding any provision of this title or the*
3 *governing documents to the contrary, an association shall not levy*
4 *assessments on separate interests within the common interest*
5 *development based on the taxable value of the separate interests*
6 *unless the association, on or before December 31, 2008, in*
7 *accordance with its declaration, levied assessments on those*
8 *separate interests based on their taxable value, as determined by*
9 *the tax assessor of the county in which the separate interests are*
10 *located.*

11 ~~SECTION 1. Section 1204.5 of the Penal Code is amended to~~
12 ~~read:~~

13 ~~1204.5. (a) In any criminal action, after a complaint or other~~
14 ~~accusatory pleading is filed and before a plea, finding, or verdict~~
15 ~~of guilty, the judge shall not read or consider any written report~~
16 ~~of any law enforcement officer or witness to any offense, any~~
17 ~~information reflecting the arrest or conviction record of a~~
18 ~~defendant, or any affidavit or representation of any kind, verbal~~
19 ~~or written, without the defendant's consent given in open court,~~

1 except as provided in the rules of evidence applicable at the trial,
2 or as provided in affidavits in connection with the issuance of a
3 warrant or the hearing of any law and motion matter, or in any
4 application for an order fixing or changing bail, or in consideration
5 of the issuance of a criminal protective order or the parameters of
6 that order when counsel for the defendant is not present, or in a
7 petition for a writ. Any report considered in determining whether
8 to issue a criminal protective order shall comply with Section 964,
9 in order to protect confidential personal information described in
10 subdivision (b) of that section. Any criminal protective order issued
11 pursuant to this section shall terminate no later than the next
12 hearing when counsel for the defendant is present.

13 (b) This section does not preclude a judge, who is not the
14 preliminary hearing or trial judge in the case, from considering
15 any information about the defendant for the purpose of that judge
16 adopting a pretrial sentencing position or approving or disapproving
17 a guilty plea entered pursuant to Section 1192.5, if all of the
18 following occur:

19 (1) The defendant is represented by counsel, unless he or she
20 expressly waives the right to counsel.

21 (2) Any information provided to the judge for either of those
22 purposes is also provided to the district attorney and to the defense
23 counsel at least five days prior to any hearing or conference held
24 for the purpose of considering a proposed guilty plea or proposed
25 sentence.

26 (3) At any hearing or conference held for either of those
27 purposes, defense counsel or the district attorney is allowed to
28 provide information, either on or off the record, to supplement or
29 rebut the information provided pursuant to paragraph (2).